

**SENATE GENERAL WELFARE COMMITTEE AMENDMENT 4**

**Amendment No. 5 to SB2312**

**Ford  
Signature of Sponsor**

**AMEND Senate Bill No. 2312\***

**House Bill No. 2581**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

by deleting the amendatory language of Section 68-11-1702(a)(6) in its entirety and by substituting the following:

(6) "Health care" means any care, treatment, service or procedure to maintain, diagnose, treat, or otherwise affect an individual's physical or mental condition, and includes medical care as defined in § 32-11-103(5).

AND FURTHER AMEND by deleting the amendatory language of Section 68-11-1702(a)(7) in its entirety and by substituting instead the following:

(7) "Health care decision" means consent, refusal of consent or withdrawal of consent to health care.

AND FURTHER AMEND by deleting the amendatory language of Section 68-11-1702(a)(8) in its entirety and by substituting instead the following.

(8) "Health care institution" means a health care institution as defined in § 68-11-102.

AND FURTHER AMEND by deleting the amendatory language of Section 68-11-1702(a)(9) in its entirety and by substituting instead the following

(9) "Health care provider" means a person who is licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession.

AND FURTHER AMEND by deleting the amendatory language of Section 68-11-1703 (b) and by substituting instead the following:

(b) An adult or emancipated minor may execute an advance directive for health care, which may authorize the agent to make any health care decision the principal could have made while having capacity. The advance directive must be in writing and signed by the principal. The advance directive must either be notarized or witnessed by

two (2) witnesses. An advance directive remains in effect notwithstanding the principal's last incapacity and may include individual instructions. For the purposes of this section, a witness shall be a competent adult, who is not the agent, and at least one (1) of whom is not related to the principal by blood, marriage, or adoption and would not be entitled to any portion of the estate of the principal upon the death of the principal under any will or codicil made by the principal existing at the time of execution of the advance directive or by operation of law then existing. A written advance directive shall contain an attestation clause which attests that the witnesses comply with the requirements of this subsection; provided, however, the failure of an advance directive to contain such clause shall not invalidate the advance directive if the witnesses do meet the requirements of this subsection.

AND FURTHER AMEND by deleting the amendatory language of Section 68-11-1703(i) and by substituting instead the following:

(i) No health care provider or institution, and no health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or non profit hospital plan, shall require the execution or revocation of an advance directive as a condition for being insured for, or receiving, health care.

AND FURTHER AMEND by inserting the following in the amendatory language of Section 1 as a new Section 68-11-1703(j):

(j) Any living will, durable power of attorney for health care, or other instrument signed by the individual, complying with the terms of Tennessee Code Annotated, Title 32, Chapter 11, and a durable power of attorney for health care complying with the terms of Tennessee Code Annotated, Title 34, Chapter 6, Part 2, shall be given effect and interpreted in accord with those respective acts. Any advance directive that does not evidence an intent to be given effect under those acts but that complies with this act may be treated as an advance directive under this act.

AND FURTHER AMEND by inserting the following language at the end of the amendatory language of Section 68-11-1706(c)(2):

No person who is the subject of a protective order or other court order that directs that person to avoid contact with the patient shall be eligible to serve as the patient's surrogate.

AND FURTHER AMEND by deleting the language "satisfied" in the amendatory language of Section 68-11-1706(c)(3)(F) and by substituting instead the language "satisfies".

AND FURTHER AMEND by deleting Sections 4 through 7 of the printed bill in their entireties and by substituting instead the following new sections, and by renumbering the remaining sections accordingly:

SECTION 4. The Tennessee Right to Natural Death Act, Tennessee Code Annotated, Title 32 Chapter 11, is amended by adding the following as a new, appropriately designated section:

Section 32-11-\_\_\_\_.

(a) A living will entered into before July 1, 2004 under this chapter shall be given effect and interpreted in accord with this chapter.

(b) A living will entered into on or after July 1, 2004 that evidences an intent that it is entered into under this chapter shall be given effect and interpreted in accord with this chapter.

(c) A living will entered into on or after July 1, 2004 that does not evidence an intent that it is entered into under this chapter may, if it complies with the provisions of the Tennessee Health Care Decisions Act, Tennessee Code Annotated, Title 68, Chapter 11, Part 17, be given effect as an individual instruction under that act.

SECTION 5. Tennessee Code Annotated, Title 34, Chapter 6, Part 2, is amended by adding the following language as a new, appropriately designated section:

Section 34-6-\_\_\_\_.

(a) A durable power of attorney for health care entered into before July 1, 2004 under this part shall be given effect and interpreted in accord with this part.

(b) A durable power of attorney for health care entered into on or after July 1, 2004 that evidences an intent that it is entered into under this part shall be given effect and interpreted in accord with this part.

(c) A durable power of attorney for health care entered into on or after July 1, 2004 that does not evidence an intent that it is entered into under this part may, if it complies with the provisions of the Tennessee Health Care Decisions Act, Tennessee Code Annotated, Title 68, Chapter 11, Part 17, be given effect as an advance directive under that act.